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ABSTRACT

During the second complete year of operation under the Tribally Controlled Community Assistance Act, four additional Tribal Colleges (for a total of 16) received grant assistance. There was also a corresponding growth in full-time equivalent student enrollment, accreditation status, and number of graduates from the participating institutions. During fiscal year 1981, the 16 Tribal Colleges served 2,557 full-time equivalent Indian students for an annual growth rate of 16%. Tribal Colleges are helping their Tribal governments in problem solving or in establishing needed services. Many Indian students, encouraged by success at Tribal Colleges, have elected to transfer to four-year colleges to obtain undergraduates degrees. The continuation of stable funding levels, the support of Federal and Tribal governments, and an improvement in physical facilities are major needs of Tribal Colleges. Part III, "Recommendations," consists primarily of reasons, by section, why the Department of the Interior and Bureau of Indian Affairs oppose enactment of both H.R.6485 and S.2623 to amend and extend the Tribally Controlled Community College Act of 1979. (BRR)

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FISCAL YEAR 1981 REPORT

TO THE

CONGRESS OF THE UNITED STATES OF AMERICA

ON THE

TRIBALLY CONTROLLED COMMUNITY COLLEGE ASSISTANCE ACT

OF 1978

PUBLIC LAW 95-471

RC 01 3844

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U.S. DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

WASHINGTON, D.C. 20245

SEPTEMBER 1982

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EXECUTIVE SUMMARY

This Annual Report to the Congress on the implementation of Public Law 95-471, the Tribally Controlled Community College Assistance Act of 1978, is for the Fiscal Year 1981 period and reflects the second complete year of operation.

During this reporting period, four additional Tribal Colleges - for a total of sixteen - are receiving grant assistance under the Act. Also, there has been a corresponding growth in full-time equivalent student enrollment, accreditation status, and number of graduates from the participating institutions.

The continuation of stable funding levels, the support of Federal and Tribal governments, and an improvement in physical facilities are major needs of Tribal Colleges.

I. INTRODUCTION

The Tribally Controlled Community College Assistance Act of 1978 (Public Law 95-471) was enacted on October 17, 1978 and mandated the use of a formula for assuring stable and equitable funding for tribally controlled community colleges.

Title I of the Act authorizes grants for operating and improving tribally controlled community colleges to ensure continued and expanded educational opportunities for Indian students. Interested tribes must request that the Bureau of Indian Affairs (BIA), Office of Indian Education Programs (OIEP) conduct a feasibility study to determine whether there is justification to encourage and maintain a Community College. Only one feasibility study can be requested per year. A positive feasibility study entitles the Community College to apply for financial assistance from the Bureau. A negative feasibility study can be appealed within 30 days of receipt of such determination.

The Act also authorizes the Secretary of the Interior to provide grants to eligible Colleges in an amount equal to $4,000 for each full-time equivalent (FTE) Indian student attendance during the academic year. If the amount appropriated for grants is not sufficient to award $4,000 per FTE student, then the award amounts are prorated.

Title II amends the Navajo Community College Act of 1971 for the purpose of providing grants to this institution for construction, operation, and maintenance.

II. DISCUSSION

This report (as of January 15, 1982) is provided in accordance with Public Law 95-471 which states under Section 106(e) and Section 107(c)(2) that the Secretary shall report to Congress on January 15 of each year the current status of Tribally Controlled Community Colleges and recommendations.

A. Section 106(e).

Sixteen (16) Tribally Controlled Community Colleges in academic year 1980-81 (FY 1981) received operational grants under the Act. Funding and full-time equivalent (FTE) student statistics are shown below.

TITLE I OF ACT	FTE STUDENTS	GRANT AWARDS
• 15 Tribally Controlled Community Colleges	1,689	$5,011,977
• Snyder Act (25 U.S.C.13)		350,000
• Technical Assistance		764,975
TITLE II OF ACT		
• Navajo Community College	868	3,172,000
TOTAL	2,557	$9,298,952

In FY 1981, the sixteen (16) Tribal Colleges served 2,557 FTE Indian students during this reporting cycle. The graduation data from FY 1979 to 1981 reveals major increases in students graduated, as follows:

	FY 79	FY 80	FY 81
GRADUATES	170	333	410

Appendix I presents a detailed breakdown for comparison of the student enrollment data and grant awards to the Tribal Colleges for Fiscal Year 1980 and 1981.

The Tribal Colleges are continuing their efforts toward gaining full accreditation status. Since the inception of the Act, two (2) of the Tribal Colleges have attained full accreditation status. In addition, nine (9) Tribal Colleges have attained candidacy status towards full accreditation, with five (5) Colleges yet to attain candidacy status. However, these five (5) Colleges have an agreement with other accredited Colleges to have their credits accepted on a transfer basis. The other nine (9) Tribal Colleges have attained candidacy status towards accreditation as a direct result of the stable funding provided by this Act.

Although the majority of these Tribal Colleges have been in existence a relatively short time, they are meeting the specific needs of Indian students as well as benefiting their respective Tribes and local communities. Tribal Colleges experience a higher student retention rate than those of typical public supported Colleges also enrolling Indian students. For example, Navajo Community College reports a retention rate of 80 percent compared to a rate of only 20 percent for Northern Arizona University and other surrounding Colleges enrolling a substantial number of Indian students.

In addition, the Tribal Colleges are also helping their Tribal governments in several ways. For instance, Salish-Kootenai Community College

is presently studying the marketing of Christmas trees to determine if it would be a viable business enterprise for the Tribe. Another example of a service provided by the Salish-Kootenai Tribal College involves developing a comprehensive library archives. The library, to date, includes a collection of documents, papers, books, and films related to the tribe. The library is extensively used by Tribal attorneys, Tribal planners, program directors, College teachers, College students, and Tribal members.

Many Indian students, encouraged by success at Tribal Colleges, have elected to transfer to four-year colleges to obtain undergraduate degrees. The Navajo Community College, for example, reports that 92% of those students awarded Associate Arts degrees in FY 1981 elected to continue at four-year Colleges or universities. Other students elected to complete certificates of training in vocational fields. Tribal Colleges are also meeting the needs of Indian people by providing classes on Tribal culture and traditions. Indian students are provided an opportunity to learn or master their own language, to learn Indian history, to learn Indian law, and a number of other Indian studies courses. These courses assist the Indian student in becoming familiar with his/her role in a modern world, and often serve as the turning point in a career choice.

While the Bureau of Indian Affairs has the primary responsibility for the implementation of the Act, several Federal, State and Indian organizations cooperate to carry out the Bureau program. The Post-Secondary Programs staff of the U.S. Department of Education provided advice on the formulation of regulations on feasibility studies.

Title III of the Higher Education Act of 1965, as amended, (Public Law 89-329) is administered by the U.S. Department of Education requiring close coordination between offices. Also, the General Accounting Office (GAO) and the Inspector General's Office (IG) have conducted comprehensive audits to identify implementation problems and/or deficiencies. The audit recommendations have been helpful in improving Tribal Community College operations and in assisting the BIA Office of Indian Education Programs in developing and implementing policies and procedures.

B. Section 107 (c) (2).

This Section requires that the Bureau of Indian Affairs establish a Data Collection System for purposes of obtaining accurate information with respect to needs and costs of operation and maintenance of Tribal Colleges in consultation with the National Center for Education Statistics (U.S. Department of Education).

The basic application form for grants and the Annual Report required of each Tribal College contains questions which provide data for this requirement of the Act and the regulations (25 CFR 32b) governing the Act. The application form is a formal planning document which is monitored and evaluated by the Bureau for each of the Colleges. The Annual Report is used to confirm and validate student statistics for data necessary to prepare budget requests for future year funding for the Colleges.

In addition, future plans call for computerization of this data as a part of the overall Office of Indian Education Programs Information System since the planning and report documents are now prepared manually by the Bureau.

C. Section 111.

The report on Tribal Colleges facilities was provided to the Senate Select Committee on Indian Affairs on June 15, 1982.

The number of Full-Time Equivalent (FTE) Indian students at the Colleges are increasing at an annual rate of 16%. This growth in the number of FTE students has been an additional burden on the Tribal Colleges to expand their facilities to adequately accommodate this rate of student growth. The majority of the Tribal Colleges lease or rent their space from Bureau of Indian Affairs facilities within the immediate geographic area, other space providers include Tribal as well as public school facilities available for community use.

The average annual cost is $600 per FTE student for operations and maintenance of facilities at the Tribal Colleges. The range is between $250 to $990 per FTE student. The variance is due to a number of factors: the number of students, the condition of facilities, the number of centers, climatic conditions, building ownership, leases, and "in kind" arrangements between the Tribal Colleges and the Tribe/Bureau for use of facilities.

III. RECOMMENDATIONS

A. For FY 1981 and subsequent years, the BIA Office of Indian Education Programs will conduct feasibility studies on an individual basis in accordance with the requirement of Public Law 95-471.

B. The Department of the Interior and Bureau of Indian Affairs opposed enactment of both H.R.6485 and S.2623 to amend and extend the Tribally Controlled Community College Assistance Act of 1978 (P.L. 95-471). In addition, the Office of Management and Budget has advised that enactment of S.2623 and H.R.6485 would not be in accord with the program of the President.

The specific concerns leading to our opposition of the draft legislation are presented below.

Section 1 of the subject draft bill would amend the "Definitions" section of the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801) by altering the definition of "Indian"; clarifying the role of the Secretary of the Interior in determining satisfactory progress toward accreditation by a college; and adding a new subsection (7) containing a method for the counting of Indian students.

We understand that the amendment would not result in the expansion of the population served by the Bureau under the 1978 Act. In view of this and the fact that we have no problems with the definition as it is, we oppose any amendment.

We strongly oppose section 2. It would amend section 101 of the Act to emphasize that the support of tribal community colleges is a part of the Federal trust responsibility and would provide that grants could be used for improvement and expansion of physical facilities. We do not think Indian education should be characterized as a trust responsibility. There is no question that the Federal Government has undertaken to provide education for Indian students. However, this undertaking stems from the political relationship of Indian tribes with the Federal Government. The political or government-to-government relationship gives rise to several social service programs that are critical to the well-being of Indian tribes; education is one of these programs.

We do not currently provide funds for improvement or expansion of physical facilities of the colleges. Funds provided through the Bureau are for program support only. We do not support broadening those limits.

Section 3 would amend section 102 of the Act to make grants authorized under the Act subject to amounts appropriated and would allow a recipient college to determine for which purposes the grants would be spent. Unmonitored and unrestricted use of funds could result in loss of cost-efficiency, therefore, we believe that the Secretary should at least monitor the use of the grant funds and their use should be limited to academic and related administrative and operational costs. We oppose this section.

Section 4 would redesignate sections 104 through 114 of the Act as 105 and 115, respectively. It would also provide for planning grants to be made to tribes and tribal entities for the purpose of developing proposals

for establishment of tribally controlled community colleges or to determine the need and potential for such colleges. Such grants would not exceed five each year in the amount of $15,000 each. In light of the Administration's efforts to decrease Federal spending, we cannot support a request for the additional funds this section would require. Further, we believe that it is likely that a tribe which is interested in such planning could provide $15,000 for planning from its funds.

Section 5 would limit recipients of technical assistance grants to those colleges already receiving funds under the Act.

Section 6 would redesignate "feasibility" studies under the Act as "eligibility" studies, and would decrease the amount of funds for such studies from 10 percent to 5 percent of the funds appropriated to carry out the current section 106 of the Act. We see no reason for mere semantic changes in the wording of the current law. Therefore, we do not support this section.

Section 7 would gradually increase the amount of grants to colleges which would be payable at full funding based upon the student count multiplied by specific amounts. We understand that these figures reflect projected inflation-caused increases in the education sector as set forth by the Congressional Budget Office. Actual funding has been less than the current $4,000, and it is possible that future reductions in the Federal budget could result in lower amounts of funding than would be imposed by these terms. We oppose this section.

Section 8 would amend the redesignated section 109 by providing that tribally-approved funding priorities could not be arbitrarily changed by the Secretary. This would permit tribes to supplement the grants under the 1978 Act, but would

require shifting of funds from other BIA-funded programs of the tribe. This could be interpreted as overriding the Secretary's authority in proposals submitted for consideration during the development of the President's budget. Therefore, we oppose this section.

Section 8 would also provide that for purposes of section 312(2)(A)(i) and 322(a)(2)(A)(i) of the Higher Education Act of 1965, BIA student grants would be equivalent to Pell grants of title IV of the 1965 Act. (We note that the citations as given in the bill are incorrect. For technical accuracy, we have supplied the correct citations.)

Section 9 would extend the authorization for appropriations under the Act through 1985, 1986, and 1987 and would provide for authorization of funds necessary to carry out the studies of facilities needs under the redesignated section 113. Section 9 would also provide for advance appropriations to carry out the Act. We are strongly opposed to this form of funding and believe that other alternatives should be fully examined.

Section 10 would amend section 111(a) of the Act to prevent funding of any newly qualified colleges if it would result in reducing the per capital amount received by the previously funded colleges to an amount less than they received in the previous year. If enacted, this section could result in the virtual "lock out" of funding for any newly qualified colleges by limiting funding to only those colleges already receiving support under the 1978 Act. We believe this is unfair and we oppose the provision. We would prefer exploring the possibility of funding on a performance basis.

Section 11 would provide that the Administrator of the General Services Administration would study the facilities of tribally controlled community colleges to identify the need for new construction, remodeling, repair, alteration and reconstruction necessary to comply with local building codes. We understand that the GSA opposes this provision and we support their position.

Section 12 of the Act would amend the redesignated section 113 of the Act to allow the Secretary to provide construction grants to those colleges where facilities are deemed to be in need of new construction by the Administrator and the General Services Administration. It also sets forth the criteria to be met by colleges applying for such grants. We oppose this provision because we do not believe that such funding is appropriate in this time of need for fiscal restraint. Further, we believe that the provision of facilities is the appropriate responsibility of the tribal governments involved.

Section 13 would provide that the Secretary shall consult with tribally controlled community colleges during the promulgation of new regulations to implement the amendments specified in the subject draft bill. This section may raise constitutional issues pertaining to legislative veto devices. Accordingly, we defer to the views of the Department of Justice on this section and we suggest that the Committee consult with the Department.

APPENDIX I

P.L. 95-471
FY 1980/81 Enrollment and Grant
Award Chart

COLLEGES	FTE		GRANTS	
	1980	1981	1980	1981
1. BLACKFEET COMMUNITY COLLEGES	83	184	$298,241	$563,198
2. D.Q. UNIVERSITY	76	91	270,331	275,544
3. DULL KNIFE MEMORIAL COLLEGE	93	73	330,189	233,000
4. COLLEGE OF GANADO	131	84	206,507	193,709
5. LITTLE HOOP COM. COLLEGE	35	21	122,806	92,595
6. NEBRASKA COM. COLLEGE	109	128	374,123	396,225
7. OGLALA SIOUX COM. COLLEGE	282	282	950,883	789,202
8. SALISH-KOOTENAI COM. COLLEGE	90	118	320,569	436,326
9. SINTE GLESKA COM. COLLEGE	173	197	618,811	596,506
10. STANDING ROCK COM. COLLEGE	111	142	398,718	429,969
11. TURTLE MOUNTAIN COM. COLLEGE	107	159	380,378	481,444
12. NAVAJO COMMUNITY COLLEGE	668	868	6,405,000	3,497,000
TOTAL	1,958	2,347	$10,676,556	7,984,718
13. FORT BERTHOLD COM. COLLEGE		46		115,398
14. SISSETON WAHPETON COM COL.		72		162,677
15. LUMMI COLLEGE OF FISHERIES		40		163,509
16. FORT PECK COM. COLLEGE		52		125,703
TOTAL	1,958	2,557	$10,676,556	$8,552,005